



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

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October 2, 2001

[REDACTED]

Attention: [REDACTED]

Dear [REDACTED]:

I am responding to your September 3, 2001, letter on behalf of your constituent, [REDACTED], the treasurer of a volunteer fire department. [REDACTED] wrote to you that his volunteer fire department received a letter from [REDACTED] stating that [REDACTED] can no longer give the fire department a tax exemption for diesel fuel because of a new federal law that went into effect on June 1, 2001. [REDACTED] said he was unfamiliar with this law and asked why it was initiated.

No new federal law affects eligibility for an exemption from the excise tax on diesel fuel. The IRS has ruled that nonprofit volunteer fire departments fall within the exemption the Internal Revenue Code (the Code) provides for liquid fuels for the exclusive use of states and their political subdivisions [Revenue Ruling 77-387, copy enclosed].

While diesel fuel may be sold at a tax-excluded price to a volunteer fire department, the only person who can claim a refund or credit for the tax on that diesel fuel is its registered ultimate vendor [Section 6427(l)(5) of the Code]. We do not have the facts, but perhaps [REDACTED] believes, possibly mistakenly, that it does not qualify as a registered ultimate vendor. Consequently, it is not selling the fuel to the volunteer fire department at a tax-excluded price.

While the current supplier of [REDACTED] volunteer fire department is evidently unwilling to sell diesel fuel at a tax-excluded price, the fire department may be able to find a different vendor. It might be helpful if they asked the prospective new supplier if it was a registered ultimate vendor willing to sell the diesel fuel at a tax-excluded price.

I hope this information is helpful. If you have any questions, please contact me or [REDACTED]
[REDACTED], of my staff, at (202) 622-3130.

Sincerely,

Associate Chief Counsel
(Passthroughs and Special Industries)

By:

Richard A. Kocak
Chief, Branch 8

Enclosure